

C00A00 Judiciary

Operating Budget Data

(\$ in Thousands)

	<u>FY 12</u> <u>Actual</u>	<u>FY 13</u> <u>Working</u>	<u>FY 14</u> <u>Allowance</u>	<u>FY 13-14</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$374,269	\$387,400	\$409,859	\$22,459	5.8%
Adjusted General Fund	\$374,269	\$387,400	\$409,859	\$22,459	5.8%
Special Fund	45,059	58,584	53,972	-4,611	-7.9%
Adjusted Special Fund	\$45,059	\$58,584	\$53,972	-\$4,611	-7.9%
Federal Fund	4,482	5,957	4,178	-1,780	-29.9%
Adjusted Federal Fund	\$4,482	\$5,957	\$4,178	-\$1,780	-29.9%
Reimbursable Fund	114	141	141	0	
Adjusted Reimbursable Fund	\$114	\$141	\$141	\$0	0.0%
Adjusted Grand Total	\$423,924	\$452,082	\$468,150	\$16,068	3.6%

- The Judiciary's fiscal 2014 budget increases by \$16.1 million, or 3.6%, over the fiscal 2013 working appropriation.
- Personnel expenses increase by \$11.6 million, largely for 82 new regular positions as well as for pension, health insurance, and other costs.
- \$2,318,397 of the general fund increase is due to the replacement of fiscal 2013 Budget Restoration Funds, created by Chapter 1 of the First Special Session of 2012, with general funds.

Personnel Data

	<u>FY 12 Actual</u>	<u>FY 13 Working</u>	<u>FY 14 Allowance</u>	<u>FY 13-14 Change</u>
Regular Positions	3,581.25	3,584.50	3,666.50	82.00
Contractual FTEs	<u>405.00</u>	<u>446.00</u>	<u>447.00</u>	<u>1.00</u>
Total Personnel	3,986.25	4,030.50	4,113.50	83.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	144.81	4.04%
Positions and Percentage Vacant as of 12/31/12	232.90	6.50%

- The budget provides 82.0 new regular positions. 31.0 of these new positions are related to the creation of new judges in the Court of Special Appeals, the circuit courts, and the District Court. 37.0 are contractual conversions, of which 19.0 are in the District Court, 4.0 are in the Administrative Office of the Courts, and 14.0 are in the Offices of the Clerks of the Circuit Courts. Further, 4.0 new positions are added to the Court of Special Appeals; 4.0 for the District Court; 3.0 for Judicial Information Systems; and 1.0 each for the Court of Appeals, the Administrative Office of the Courts, and court-related agencies.
- The budget includes 1.0 additional contractual full-time equivalent. This includes 4.0 new bailiffs related to the new judges in the District Court, and 34.0 further bailiffs for the District Court. These increases are offset by the 37.0 contractual conversions.
- Turnover expectancy is set at 4.04% for fiscal 2014, which will require 145.0 vacancies. By contrast, the Judiciary had 232.9 vacant positions as of December 31, 2012, for a rate of 6.5%.

Analysis in Brief

Major Trends

District Court Metrics Highlight Increasing Disparities between Cases Closed Within and Beyond the Time Standard: In the District Court, the statewide case flow assessments highlighted disparities between the timeliness of those cases that are terminated within the time standard compared to those cases that are terminated beyond the time standard.

Circuit Courts' Metrics Also Exhibit Similar Disparities: In the circuit courts, statewide case flow assessments exhibited similar disparities to those mentioned for the District Court. Further, the number of Children in Need of Assistance Shelter and Termination of Parental Rights cases completed within the time standard declined.

Issues

Attorney Assessments and Related Special Funds and Agencies Lack Oversight: All lawyers practicing in the State are required to pay a \$130 assessment toward the cost of regulatory oversight of the profession and to reimburse clients who have been defrauded. Most of the assessment is not codified, thus there are no limits on how much or how often assessments may be increased. Assessments are not sized to expenditure needs, lack transparency and oversight of funds transfers and expenditures, and lack the standard provisions applied to special funds. **It is recommended that committee narrative be adopted which requires the Judiciary to submit informational budgets and fund activity reports to the General Assembly with its budget request each year. The budget committees may also seek to work with the appropriate policy committees to examine the need for legislation or administrative alternatives to regularize the operation and administration of these accounts.**

Filing Fees for Maryland Legal Services Corporation Face Sunset: An increase in filing fee surcharges for civil cases, enacted in 2010, has helped the Maryland Legal Services Corporation (MLSC) maintain grant funding levels for legal services providers during the recent recession. The increase in surcharges terminates at the end of fiscal 2013, and it is unlikely that MLSC will be able to maintain its grant funding level if the increase is allowed to expire. **DLS recommends that MLSC and the Judiciary comment on the impact of the expiration of the surcharges and how this will affect grant funding and access to justice in the State of Maryland.**

A Mandated Appropriation Provision for MLSC May Be Unconstitutional: Currently, two different sections of statute mandate that Abandoned Property fund revenues be used to support funding for MLSC. There is an issue as to whether one of the sections is constitutional. **DLS will recommend language be added to the Budget Financing and Reconciliation Act (BRFA) of 2013 or for separate legislation to amend and clarify current statute after receiving advice of counsel on the matter from the Office of the Attorney General.**

Child Support Enforcement Administration Audit – Electronic Exchange of Attorney Data: A recent audit of the Child Support Enforcement Agency revealed that it has not fully established electronic exchanges of data with various State agencies for the purpose of license suspensions, including with the Judiciary for attorneys. This is a repeat finding within the most recent audit, but it requires compliance action from both the Child Support Enforcement Administration and the Judiciary to be resolved. **DLS recommends withholding \$1,000,000 from the general fund appropriation of the Judiciary until the electronic exchange of data on attorney licenses is fully implemented such that it addresses the finding within the Department of Human Resources fiscal compliance audit.**

Recommended Actions

	<u>Funds</u>
1. Add budget bill language to make 31 new positions and general funds contingent upon the passage of legislation creating new judgeships.	
2. Add budget bill language to reduce general funds and abolish new positions.	
3. Add budget bill language to reduce general funds and deny contractual conversions.	
4. Add budget bill language to reduce general funds to limit increases in operating expenditures.	
5. Eliminate 34 full-time equivalents for new bailiffs in the District Court.	\$ 947,988
6. Add budget bill language to withhold general funds within the Administrative Office of the Courts contingent upon the resolution of the Child Support Enforcement Administration audit finding.	
7. Increase Turnover to 4.6%	1,500,000
8. Add committee narrative to request informational budget and fund balance information from the Judiciary on the Disciplinary Fund and Client Protection Fund.	
Total Reductions	\$ 2,447,988

Updates

Plan to Create New Judges to Fulfill Certified Need: In the 2012 session, the budget committees requested a multi-year plan from the Judiciary for the creation of new judgeships to fulfill the need certified by the Chief Judge in fall 2011. In the interim, the Chief Judge submitted such a plan, which would create 26 of the certified need of 38 judgeships by the 2018 legislative session. Further, the plan certifies a need for 4 additional appellate judges for the Court of Special Appeals and plans for 2 judges to be added this session.

Land Records Fund Unsustainable Beyond Fiscal 2015: Chapter 397 of 2011 increased the land record surcharge from \$20 to \$40 with a sunset at the end of fiscal 2015. The fund is projected to be viable at least through fiscal 2015, and possibly longer as constrained real estate activity has resulted in lower than budgeted spending in land records offices.

C00A00 – Judiciary

C00A00 Judiciary

Operating Budget Analysis

Program Description

The Judiciary is composed of four courts and seven programs which support the administrative, personnel, and regulatory functions of the Judicial Branch of government. Courts consist of the Court of Appeals, the Court of Special Appeals, circuit courts, and the District Court. The Chief Judge of the Court of Appeals is the administrative head of the State's judicial system. The Chief Judge appoints the State court administrator as head of the Administrative Office of the Courts (AOC) to carry out the administrative duties which include data analysis, personnel policies, education, and training for judicial personnel.

Other agencies are included in the administrative and budgetary purview of the Judiciary. The Maryland Judicial Conference, consisting of judges of all levels, meets annually to discuss continuing education programs. Court-related agencies also include the Commission on Judicial Disabilities, the Maryland Conflict Resolution Office, and the Maryland State Board of Law Examiners (Board of Law Examiners). The State Law Library serves the legal information needs of the State. The Family Law Division manages and administers programs in the Maryland Family Law Courts, including policy and program development. Judicial Information Systems manages information systems maintenance and development for the Judiciary. Major information technology (IT) development projects are in a separate program while all production and maintenance of current operating systems are in the Judicial Information Systems program.

Performance Analysis: Managing for Results

1. District Court Metrics Highlight Increasing Disparities between Cases Closed Within and Beyond the Time Standard

Fiscal 2009 budget bill language directed the Judiciary to incorporate case flow standards adopted by the Maryland Judicial Council into its annual Managing for Results data in order to evaluate access to justice; expedition and timeliness; equity, fairness, and integrity; independence and accountability; and public trust and confidence.

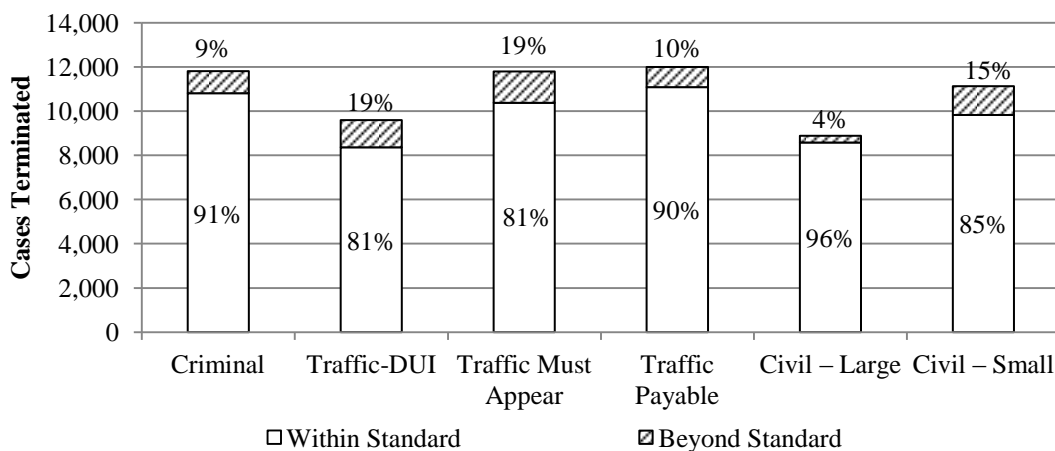
The Judiciary utilized standards set by the American Bar Association that determine the amount of time it should take to process a particular type of case. Those standards were modified due to existing statutes and rules that impact the way in which Maryland courts are required to process certain cases as compared with other states. The statewide case flow assessment submitted by the Judiciary analyzes in depth cases that come through the District and circuit courts and, in particular, the timeliness with which those cases are terminated or otherwise disposed. The time standards for District Court cases are set according to the following case types:

- **Criminal:** 180 days;
- **Traffic Driving Under the Influence:** 180 days;
- **Traffic Must Appear:** 180 days;
- **Traffic Payable:** 120 days;
- **Civil – Large:** 250 days; and
- **Civil – Small:** 90 days.

For each case type, the goal is to terminate 98% of cases within the time standard.

Exhibit 1 illustrates the number of District Court cases terminated within the time standard. While the majority of cases for each case type are disposed of within the established timeframe, in all categories, the District Court failed to meet the performance standard of 98%. However, the timely termination of all case types improved in fiscal 2011 from 2010. For example, while the Judiciary was only able to terminate 81% of Traffic Must Appear cases in fiscal 2011, this is a seven percentage point increase from the fiscal 2010 rate of 74%. Traffic Payable and Civil – Small cases both saw a two percentage point increase from 88 to 90% and from 83 to 85%, respectively, while all other case types experienced a one percentage point increase from fiscal 2010 to 2011. Yet, there is still a dramatic difference in the timeliness of those cases that are terminated within the time standard when compared to those cases that are terminated beyond the time standard.

Exhibit 1
Maryland District Court
Cases Terminated Within and Beyond Time Standard
Fiscal 2011

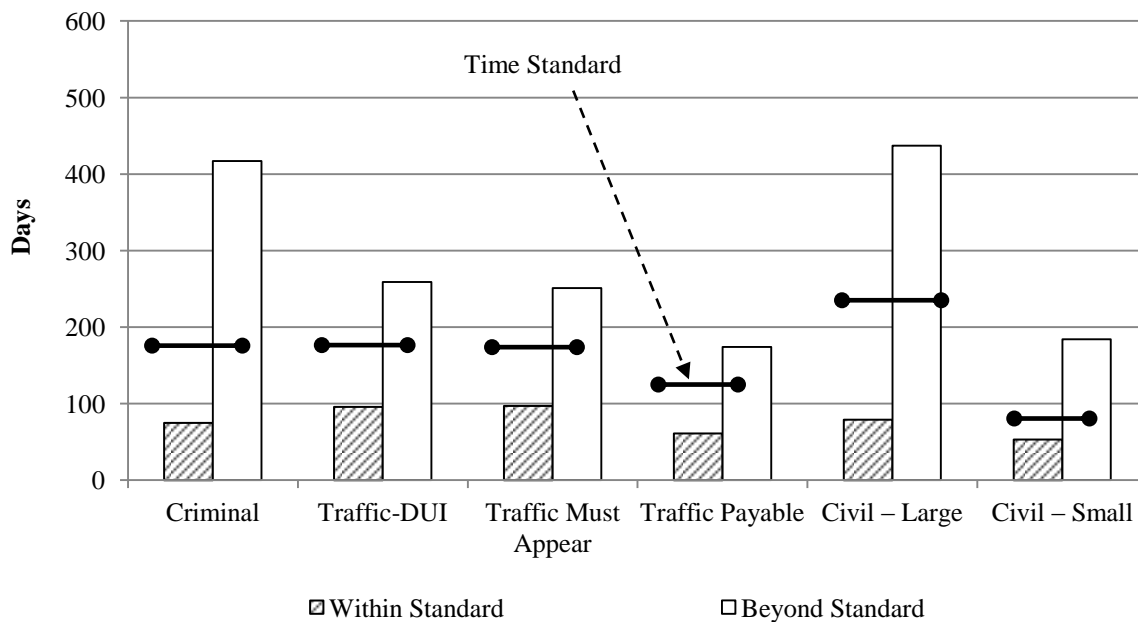


DUI: driving under the influence

Source: Maryland Judiciary

Exhibit 2 analyzes the average case processing time for District Court cases. In each case type, there are large differences between cases terminated within the time standard compared to those cases that are terminated beyond the time standard. Furthermore, the average time for over standard cases to be terminated increased in all categories from fiscal 2010 to 2011. Criminal cases experienced the largest increase, from an average termination time of 278 days for over-standard cases to an average of 417 days. Civil – Large cases also exhibited a large increase, from 398 to 437 days for over-standard cases from fiscal 2010 to 2011, respectively. Overall, cases that were processed beyond the timeframe took between 39 and 132% longer than the time standard, with both Civil – Small and Criminal taking over 100% longer than the time standard on average to complete (104 and 132%, respectively). These increases, combined with the fact that the average termination time for within-standard cases fell in three categories and remained the same in two, mean that the disparity between the average termination time metric for within-standard cases and the average termination time metric for over-standard cases increased between 1 and 68% from fiscal 2010 to 2011.

Exhibit 2
Maryland District Court
Average Case Processing Time for Cases Within and Beyond Time Standard
Fiscal 2011



DUI: driving under the influence

Source: Maryland Judiciary

2. Circuit Courts' Metrics Also Exhibit Similar Disparities

The time performance standards for circuit court cases are set according to the following case types:

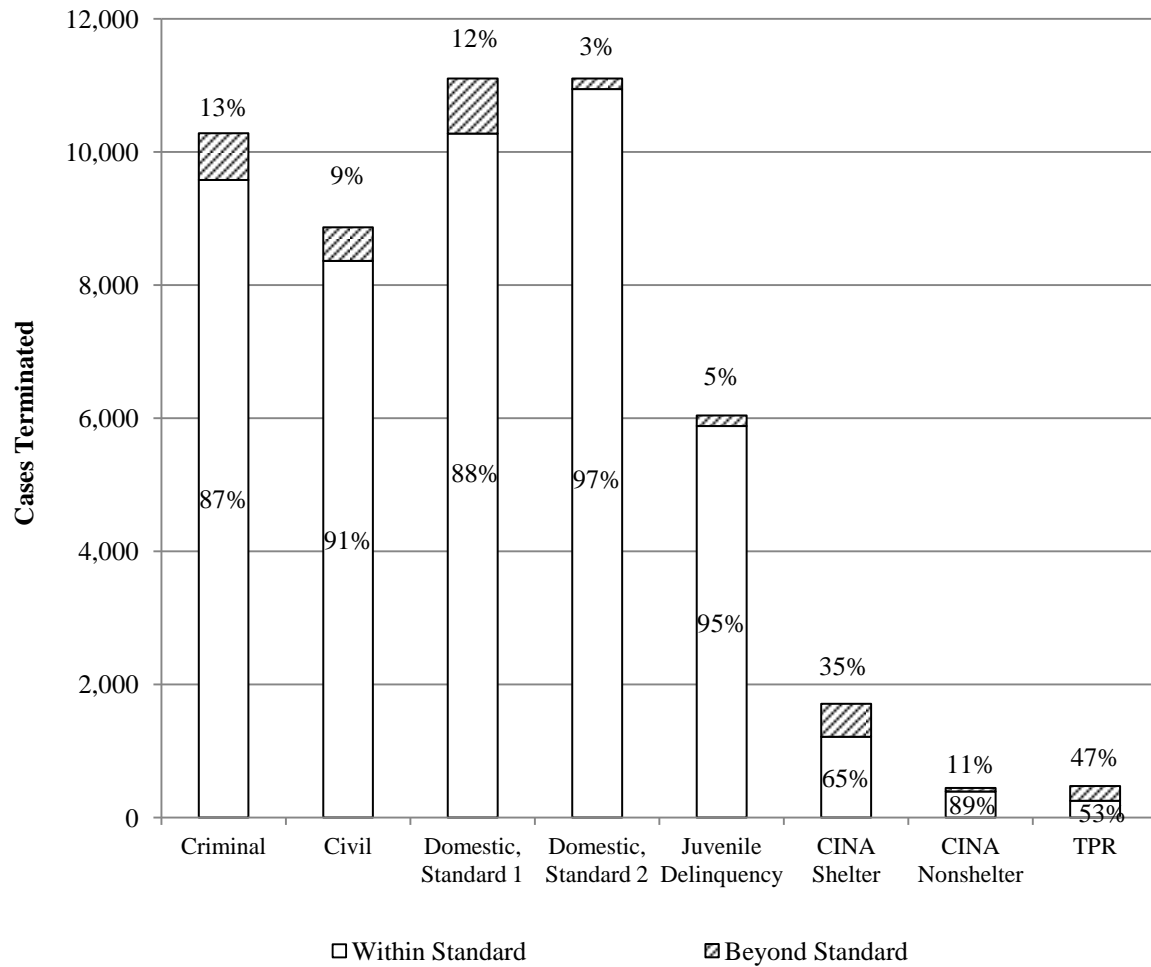
- **Criminal:** 180 days, 98%;
- **Civil:** 548 days, 98%;
- **Domestic Relations, Standard 1:** 365 days, 90%;
- **Domestic Relations, Standard 2:** 730 days, 98%;
- **Juvenile Delinquency:** 90 days, 98%;
- **Children In Need of Assistance (CINA) Shelter:** 30 days, 100%;
- **CINA Nonshelter:** 60 days, 100%; and
- **Termination of Parental Rights (TPR):** 180 days, 100%.

Of note is a change in the circuit court reporting on civil cases, which no longer include foreclosure cases.

Exhibit 3 illustrates the number of circuit court cases terminated within the time standard. Similar to District Court, while the majority of cases for each case type are disposed of within the timeframe, the circuit court failed to meet the established time standard in all categories. In particular, CINA Shelter cases saw a four percentage point decline in cases terminated within the standard, from 69 to 65% from fiscal 2010 to 2011. TPR cases also saw a two percentage point decline, from 55 to 53%. These two declines are further troubling because the goal for cases terminated within standard is 100%. These two case categories also represent the furthest gulf between the goal and actual performance.

Exhibit 4 analyzes the average case processing time for circuit court cases. Similar to the District Court, large disparities exist between the average termination time for within standard and beyond standard cases in the circuit court. Overall, cases that were terminated beyond the time standard took between 44 and 223% longer than the time standard. In particular, CINA Shelter cases terminated beyond the time standard took an average of 97 days to complete, when the time standard is 30 days and the termination goal is 100%. Furthermore, over standard cases took between 2.4 and 7.4 times longer to terminate on average than within standard cases. In particular, beyond standard Domestic Relations (Standard 2) cases took 1,233 days to terminate on average, which is 7.4 times longer than the average processing time for cases terminated within the time standard, which was only 166 days.

Exhibit 3
Maryland Circuit Courts
Cases Terminated Within and Beyond Time Standard
Fiscal 2011

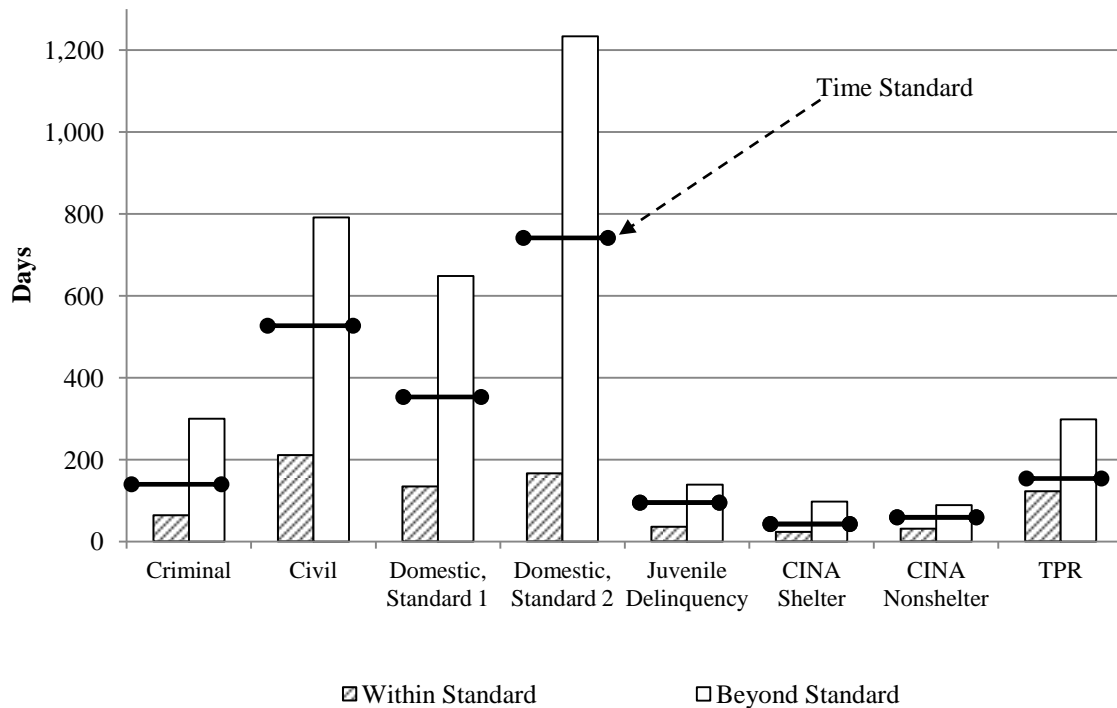


CINA: Children in Need of Assistance

TPR: Termination of Parental Rights

Source: Maryland Judiciary

Exhibit 4
Maryland Circuit Courts
Average Case Processing Time for Cases Within and Beyond Time Standard
Fiscal 2011



CINA: Children in Need of Assistance
 TPR: Termination of Parental Rights

Source: Maryland Judiciary

Proposed Budget

The fiscal 2014 budget for the Judiciary totals \$468.2 million, of which approximately 87.5% is general funds. Compared against fiscal 2013, the budget grows by \$16.1 million, or 3.6%, as seen in **Exhibit 5**. The main cost driver of increased spending is for personnel-related expenditures, while increases in grants, rent, and other operating costs are also increasing in the fiscal 2014 budget.

Exhibit 5
Proposed Budget
Judiciary
(\$ in Thousands)

How Much It Grows:	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
2013 Working Appropriation	\$387,400	\$58,584	\$5,957	\$141	\$452,082
2014 Allowance	<u>409,859</u>	<u>53,972</u>	<u>4,178</u>	<u>141</u>	<u>468,150</u>
Amount Change	\$22,459	-\$4,611	-\$1,780	\$0	\$16,068
Percent Change	5.8%	-7.9%	-29.9%		3.6%
Contingent Reduction	\$0	\$0	\$0	\$0	\$0
Adjusted Change	22,459	-4,611	-1,780	0	16,068
Adjusted Percent Change	5.8%	-7.9%	-29.9%	0.0%	3.6%

Where It Goes:**Personnel Expenses**

New positions	\$5,663
Employee retirement	4,011
Annualized cost-of-living adjustment	2,366
Employee and retiree health insurance	2,143
Retired judges	789
Social Security	501
Turnover adjustments	-65
Other personnel adjustments	-247
Judicial retirement	-3,571

Contractual Employment

New bailiffs	1,060
Other changes	29
Contractual conversions	-1,034

Major Information Technology (IT)

Maryland Electronic Court maintenance	2,100
Major IT development	-2,113

C00A00 – Judiciary

Where It Goes:

Grant Funding

Family Law division.....	775
Office of Problem Solving Courts.....	192
County Masters.....	114
Court security	100
Access to Justice Commission.....	80
Foster Care Coordinator Improvement Project	78
Maryland Legal Services Corporation adjustment	-500

Other Changes

Rent non-Department of General Services (DGS)	1,329
Legal services	800
Judicial Information Systems disaster recovery	700
Office supplies.....	576
Postage.....	491
Subscriptions	228
New equipment for new judges	190
Communications (telephone, cell phone, etc.)	121
Other.....	-303
Rent DGS	-535

Total **\$16,068**

Note: Numbers may not sum to total due to rounding.

Personnel

Personnel-related expenditures increase the fiscal 2014 budget by approximately \$11.6 million. Within personnel, the largest increase is for 82 new positions. These positions break down as follows:

- 31 positions are tied to the proposed legislation increasing the number of judges across the Court of Special Appeals, circuit courts, and the District Court. This includes both the judges and the support staff necessary for them. The current plan for this fiscal year is to add 5 circuit court judges for Calvert, Carroll, Cecil, Frederick, and Wicomico counties, 4 District Court judges for Baltimore City, Charles, Montgomery, and Prince George's counties, and 2 appellate judges to the Court of Special Appeals. These positions increase the fiscal 2014 budget by \$2.9 million

C00A00 – Judiciary

- 14 positions are for various agencies within the Judiciary, with a total increase of \$737,000. These include:
 - 1 position for the Judicial Institute;
 - 3 positions for the Alternative Dispute Resolution office within the Court of Special Appeals;
 - 1 position for the Court of Special Appeals clerk's office;
 - 4 clerks for the District Court, with one each for Baltimore, Frederick, Harford, and Prince George's, counties;
 - 1 position for the Access to Justice Commission;
 - 1 position for the Rules Committee; and
 - 3 positions for Judicial Information Systems.
- 37 other positions are for the conversion of currently contractual full-time equivalents (FTE) positions to regular positions. Of these conversions, 19 are in the District Court, 4 are in the Administrative Office of the Courts, and 14 are within the various Clerks of the Circuit Courts. The conversion of these FTEs increases the budget by approximately \$600,000.

Another major personnel-related change includes pension contributions, which increase \$4.0 million for regular employees but decrease \$3.6 million for the judicial pension. Contribution rates for the regular employees', teachers', State police, and law enforcement officers' pension plans increase in fiscal 2014. The rate increases are attributable to underattaining investment returns, adjusting actuarial assumptions, and increasing the reinvestment of savings achieved in the 2011 pension reform. With respect to the judicial pension plan, contribution rates decline in fiscal 2014. This is primarily attributable to increasing judges' contributions to the plan, changing assumptions, and receiving a settlement in favor of the plan that reduces the unfunded liability.

Other major personnel changes include \$2.4 million for the annualization of the cost-of-living adjustment (COLA) increase for State employees, \$2.1 million for health insurance increases, \$0.8 million for retired judge use, and \$0.5 million for increased Social Security contributions.

Contractual Employment

Contractual FTEs increase by 1 in the fiscal 2014 budget. This is due to the addition of 38 new bailiffs, which increases funding \$1.06 million. Of these new bailiffs, 4 are part of the expansion of new judges in the district court, while the other 34 are part of an initiative to have 2 bailiffs assigned to every courtroom in the State. These FTEs are offset by the 37 conversions previously mentioned, which decreases funding by \$1.03 million.

Major IT Projects

Funding for Major IT development declines \$2.1 million in fiscal 2014. However, most of this decline is offset by increases of \$2.1 million in maintenance costs for the Maryland Electronic Court (MDEC) program. In fiscal 2014, MDEC is going to begin its pilot phase in Anne Arundel County, including both appellate courts and the circuit and District Court locations within the county. The full rollout of the project to other counties will also begin in fiscal 2014 and run into fiscal 2017. As such, funding has been transferred from development and into maintenance, which decreases special funds and increases general funds related to this project. The Judiciary anticipates the \$2.1 million cost of maintenance for MDEC to remain at that level through the rollout phase.

Grant Funding

Changes in grant funding account for \$0.8 million of the change in the Judiciary budget. Major funding increases include:

- \$774,871 in funding increases for various family law initiatives and programs, including alternative dispute resolution and legal services;
- \$191,781 for the Office of Problem Solving Courts, which oversees and funds the various jurisdictional drug and mental health courts;
- \$114,353 for increases in County Masters' salaries;
- \$100,000 for court security increases;
- \$80,000 for Access to Justice initiatives to increase accessibility; and
- \$78,016 for a Foster Care Coordinator Improvement Project grant.

These increases are partially offset by a \$500,000 decline in the budget for the Maryland Legal Services Corporation (MLSC).

Other Changes

Rent costs for the Judiciary are anticipated to increase \$1.3 million for rent paid for non-State owned buildings. This is partially offset by declines in Department of General Services rent costs declining by \$0.5 million. Other increases include \$0.8 million in legal services contracts for the Glen Burnie Self-help Center, \$0.7 million for Judicial Information Systems to contract with the University of Maryland, Baltimore County for IT disaster recovery and restoration, \$0.5 million for increases in office supplies, \$0.5 million for increases in postage costs, and various other changes.

Issues

1. Attorney Assessments and Related Special Funds and Agencies Lack Oversight

The Judiciary established the Disciplinary Fund in 1975 by Maryland Rule 16-714 to support the activities of the Attorney Grievance Commission (AGC), which investigates and prosecutes attorneys whose conduct violates the Maryland Lawyers Rules of Professional Conduct as well as those engaged in the unauthorized practice of law. Revenues for the fund are generated by assessments imposed on practicing attorneys in Maryland. Currently, the Judiciary levies two annual assessments totaling \$130 per attorney. Funds are distributed as follows:

- \$20 to the Client Protection Fund (codified in Section 10-311 of the Business Operations and Professions Article), which is used to reimburse losses caused by defalcations of lawyers; and
- \$110 to the Disciplinary Fund, which is used to pay for the operating expenses of AGC.

Issues

The \$110 Assessment Is Set by No Fixed Public Process. Assessments are required from all lawyers as a “condition precedent to the practice of law.” Neither the current assessment nor a maximum are established in statute or regulation. The last increase to this assessment occurred in fiscal 2003 but was not accomplished by rule or court order. Rather, the Judiciary increased the amount by a letter to the chairman of AGC in which it approved a \$35 increase for fiscal 2005 and a \$5 increase for each of the following five consecutive fiscal years. In May 2012, however, the Court of Appeals by administrative order lowered the fee temporarily to \$110 for fiscal 2013, with a further decision on the amount of the assessment pending the findings of a comprehensive audit performed by the Judiciary’s Internal Audit Department. The \$110 assessment pays for the expenses of AGC, and since this body is acting in a regulatory capacity, the assessments are considered “monies of the State” as determined in a February 2011 advice of counsel from the Attorney General’s office. The \$110 assessment is set neither by regulation, statute, or rule of court.

Assessment Levels Are Not Sized to Expenditures. **Exhibit 6** illustrates fund activity for the Disciplinary Fund since fiscal 2007. Revenues from the attorney assessment, which were previously \$125, have outpaced commission expenditures by \$1.2 million to \$1.7 million each year until the current fiscal year estimate. This has resulted in a fund balance that would have approached \$10.0 million upon which the Judiciary issued an administrative order in December 2011 transferring \$5.7 million of the fiscal 2012 balance to other purposes. In particular, the Judiciary transferred \$5.4 million to the Client Protection Fund of the Bar of Maryland (CPF) account in order to address unfunded liabilities of that fund, as well as \$300,000 to the Professionalism Commission, which is now the Maryland Professionalism Center.

Exhibit 6
Attorney Grievance Commission
Revenues and Expenses
Fiscal 2007-2013

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>Est. 2013</u>	<u>Avg. Annual % Change</u>
Complaints Received	1,940	2,053	1,885	2,003	2,321	2,037	n/a	1.0%
Starting Balance	\$2,329,797	\$3,664,335	\$4,884,760	\$6,203,258	\$7,853,786	\$9,521,573	\$5,413,201	15.1%
Revenues	\$4,112,759	\$4,374,025	\$4,554,641	\$4,761,194	\$4,891,108	\$4,922,119	\$4,390,874	1.1%
Total Revenue	\$4,112,759	\$4,374,025	\$4,554,641	\$4,761,194	\$4,891,108	\$4,922,119	\$4,390,874	1.1%
Transfers								
Client Protection Fund	\$0	\$0	\$0	\$0	\$0	-\$5,400,000	\$0	
Professionalism Commission	0	0	0	0	0	-300,000	0	
Expenditures	-\$2,778,221	-\$3,153,600	-\$3,236,143	-\$3,110,666	-\$3,223,321	-\$3,330,491	-\$4,289,338	7.5%
Ending Balance	\$3,664,335	\$4,884,760	\$6,203,258	\$7,853,786	\$9,521,573	\$5,413,201	\$5,514,737	7.1%
Diff Revenue and Expenditures	\$1,334,538	\$1,220,425	\$1,318,498	\$1,650,528	\$1,667,787	\$1,591,628	\$101,536	

Source: Attorney Grievance Commission Annual Reports; Judiciary; Administrative Order December 16, 2011

Exhibit 7 shows revenues and expenditures of CPF. Outside of fiscal 2012, the revenues of CPF did not cover expenses including claims and operating costs. According to the Judiciary, there are 194 pending claims as of December 2012 with a total value of \$30,802,700. If claims are paid such that the fund balance is decreased to \$2 million, the potential funded liability according to CPF is \$23,802,700. However, in an independent audit of CPF conducted by an outside entity there was no liability indicated for the CPF account since the dollar amount of pending claims that will be approved by the Trustee cannot be reasonably estimated. Together, the closing balance of both the Disciplinary and the CPF account totaled approximately \$15 million at the end of fiscal 2012.

Exhibit 7
Client Protection Fund
Fiscal 2009-2013

	<u>2009</u> <u>Actual</u>	<u>2010</u> <u>Actual</u>	<u>2011</u> <u>Actual</u>	<u>2012</u> <u>Actual</u>	<u>2013</u> <u>Estimate</u>
Opening Balance	\$6,090,261	\$5,865,492	\$4,801,867	\$4,088,404	\$9,658,877
Revenue	\$1,017,532	\$1,141,398	\$1,067,339	\$1,086,727	\$1,100,000
Interest Income	84,604	10,703	11,415	17,485	17,200
Transfers	0	0	0	5,400,000	0
Subtotal Revenue	\$1,102,136	\$1,152,101	\$1,078,754	\$6,504,212	\$1,117,200
Operating Expenses	\$1,326,905	\$2,215,726	\$1,792,217	\$933,739	\$460,000
Closing Balance	\$5,865,492	\$4,801,867	\$4,088,404	\$9,658,877	\$10,316,077

Source: Maryland Judiciary

Lack of Expenditure and Transfer Oversight. AGC will spend an estimated \$4.3 million in fiscal 2013 without any oversight or review by the General Assembly as to how funds are spent. Hiring by AGC and CPF, including the number of positions, salary awarded, and fringe benefits offered are subject to human resources regulations determined by those respective bodies and are not subject to the same rules, regulations, and oversight as other State employees, including those that work in the Judiciary. In fiscal 2012, AGC spent \$3.3 million on operating expenses while only having a complaint caseload totaling 2,037. Moreover, as noted, in December 2011, the Judiciary moved \$5.4 million from the Disciplinary Fund to the CPF account and \$300,000 to the Professionalism Commission without any need for review or legislation to determine the appropriateness of these transactions. Any other State agency would require legislation to transfer balances between funds.

Entities and Assessments Continue to Proliferate. In September 2012, the Judiciary, by administrative order, created the Maryland Professionalism Center out of the Professionalism Commission. This body, which is also given the authority to hire people at its own discretion similar to the AGC and CPF, was created in order to explore and monitor the implementation of the professionalism policies for judges and lawyers adopted by the Court of Appeals, as well as to administer the New Bar Admittees' Professionalism Course and Mentoring Program. Revenues for this body were also created in the order by increasing the fee paid by new Maryland Bar Admittees when they are required to take the professionalism course by \$20, bringing the total fee to \$60, as well as redirecting \$5 of the annual assessment paid by all lawyers in the state to the Professionalism Center starting July 1, 2013.

It is recommended that committee narrative be adopted which requires the Judiciary to submit informational budgets and fund activity reports to the General Assembly with its budget request each year.

The budget committees may also seek to work with the appropriate policy committees to examine the need for legislation or administrative alternatives to regularize the operation and administration of these accounts.

2. Filing Fees for Maryland Legal Services Corporation Face Sunset

Background

MLSC was established in 1982 to make grants to organizations providing legal services to indigent residents of the State. Grant revenue is generated by the MLSC Fund and stems from the following sources:

- **Interest on Lawyer Trust Accounts (IOLTA):** Maryland Rule 16-604 requires that all Maryland attorneys deposit funds received from a client or third person into an attorney trust account with an approved financial institution. The interest on those accounts is paid into the MLSC Fund.
- **Filing Fees:** In accordance with § 7-202 and 7-301 of the Courts and Judicial Proceedings article, a surcharge on certain circuit and District Court filing fees is deposited into the MLSC Fund.
- **General Funds:** Section 17-319 of the Commercial Law Article requires that the Governor transfer \$500,000 annually from abandoned property funds to the MLSC Fund. Although the source of the money is general funds, it is a revenue and is not appropriated.
- **MLSC Reserve Fund:** Any revenues in excess of expenses may be deposited to the MLSC Reserve Fund regardless of the source. MLSC is permitted to transfer MLSC Fund revenues into the MLSC Reserve Fund rather than grant it to legal services organizations. However, when revenues exceed the legislative appropriation, the money remains in the MLSC Fund. It

is MLSC policy to maintain at least 50% of its total anticipated grant commitments in the MLSC Reserve Fund; however, it has dropped below that threshold in recent years due to transfers to the MLSC Fund that were necessitated by declining IOLTA revenue.

- **Donations:** While not a significant revenue, MLSC receives donations to support its mission.

The funds collected from the IOLTA, the filing fees, and the abandoned property fund are deposited by the Administrative Office of the Courts into the MLSC Fund, which MLSC then grants out to various organizations which perform the legal assistance services. In fiscal 2011, operating grants of \$15.9 million were awarded to 34 legal services providers that opened more than 140,000 new cases in fiscal 2011 (a 9% increase over the prior year), and provided legal assistance in matters such as foreclosure, eviction, elder care, domestic violence, child custody, employment, food stamps, veterans benefits, and other issues. **Exhibit 8** contains the revenue and expenditure figures for MLSC from fiscal 2008 through its projection for fiscal 2014.

Filing Fee Surcharges

As a result of the economic recession and the subsequent decline in interest rates, revenues from IOLTA earnings began to decline in fiscal 2009, resulting in a structural imbalance of \$2.3 million in that fiscal year. As a result, MLSC transferred \$800,000 from its Reserve Fund to maintain grant activity levels. In fiscal 2010, the structural imbalance improved slightly due to a decrease in grants; however, MLSC still needed to transfer \$1.5 million in reserves to address the gap in revenues.

Due to declining IOLTA revenue, as well as an increasing demand for legal services, the General Assembly passed Chapter 486 of 2010, which increased the maximum surcharge on civil cases filed in circuit courts from \$25 to \$55. In the District Court, the maximum authorized surcharge also increased from \$5 to \$8 for summary ejectment cases and from \$10 to \$18 for all other civil cases. The higher maximum surcharge increased filing fee revenue between fiscal 2010 and fiscal 2011, which allowed MLSC to increase grant funding levels to pre-2010 levels while relying less heavily on its reserve fund. It should be noted, however, that MLSC has spent from its reserve every year since 2009.

Exhibit 8
Maryland Legal Services Corporation
Operating Revenues and Expenses
Fiscal 2008-2014

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013 Est.</u>	<u>2014 Est.</u>
Revenues							
Interest on Lawyers Trust Accounts	\$6,723,236	\$3,951,000	\$2,276,000	\$2,524,000	\$2,547,333	\$1,800,000	\$1,500,000
Filing Fee Surcharge	7,475,582	7,898,000	8,091,722	12,942,300	12,792,952	12,750,000	(7,018,315 - 12,750,000) ¹
Abandoned Property Fund	500,000	500,000	500,000	500,000	500,000	500,000	500,000
MLSC Fund Carryover from Prior Year	1,874,182	1,073,000	0	0	0	0	0
Interest Paid to State					-8,572		
Total MLSC Fund Revenue	\$16,573,000	\$13,422,000	\$10,867,722	\$15,966,300	\$15,831,713	\$15,050,000	(\$9,018,315 - \$14,750,000)
Transfers							
Transfer from Reserve Fund	\$0	\$800,000	\$1,507,000	\$646,120	\$1,475,217	\$375,967	(\$0 - \$3,869,936) ²
Cy Pres Award ³						664,000	
Total Revenue & Transfers	\$16,573,000	\$14,222,000	\$12,374,722	\$16,612,420	\$17,306,930	\$16,089,967	(\$9,018,315 - \$12,888,251)
Expenses							
Grants	\$13,784,550	\$15,000,000	\$11,740,000	\$15,904,977	\$16,394,822	\$15,334,756	(\$8,263,104 - \$15,334,756) ⁴
Operating Expenses	664,286	722,488	703,743	707,443	717,962	755,211	755,211
MAHT Refund ⁵					194,146		
Total Expenses	\$14,448,836	\$15,722,488	\$12,443,743	\$16,612,420	\$17,306,930	\$16,089,967	(\$9,018,315 - \$16,089,967)
Dividends, Market Value				\$1,001,289			
Available Reserves on June 30	\$7,219,000	\$5,380,000	\$4,592,000	\$5,593,550	\$4,245,903	\$3,869,936	(\$0 - \$3,869,936)

MLSC: Maryland Legal Services Corporation
MAHT: Maryland Affordable Housing Trust

¹ The fiscal 2014 filing fee revenues reflect a range from expected revenues (should the sunset in Chapter 486 of 2012 go into effect) to a level estimate (should the sunset be repealed and surcharges continue at the current level.)

²The exact dollar amount of reserve transfer funds is up to the Maryland Legal Services Corporation (MLSC) Board of Directors.

³ Cy Pres award is a one-time payment out of a national class action lawsuit in Washington State.

⁴Fiscal 2014 grant projections reflect a range of a 40% decline (should the sunset in Chapter 486 of 2010 go into effect and increased surcharges expire) to flat funding (if sunset in Chapter 486 of 2010 is repealed and increased surcharges continue and MLSC continues spending from reserves).

⁵The Maryland Affordable Housing Trust refund reflects funds mistakenly paid to MLSC.

Source: Maryland Legal Services Corporation

Unless the General Assembly acts, the increases in the surcharges in 2010 expire at the end of fiscal 2013. The expiration of the surcharge increases, coupled with the fact that the number of case filings eligible under this surcharge have been declining as well, will lead to an estimated 45% drop in filing fee revenue for MLSC in fiscal 2014 and an estimated 40% overall drop in total MLSC Fund revenue. Furthermore, IOLTA revenue is projected to decline even further as banks continue to lower the interest rates associated with these accounts.

The expiration of the surcharge increases and the decline in IOLTA revenues are projected to have a major effect on the level of grant expenditures, as demonstrated in Exhibit 8. Should the termination of Chapter 486 become effective, MLSC would not be able to maintain its current funding level in fiscal 2014, even if it spent the entirety of its reserve funds in that fiscal year.

DLS recommends that MLSC and the Judiciary comment on the impact of the expiration of the surcharges and how this will affect grant funding and access to justice in the state of Maryland.

3. A Mandated Appropriation Provision for MLSC May Be Unconstitutional

Beyond the issues previously mentioned for MLSC and filing fee revenues, there is also a discrepancy concerning the statutory language surrounding the \$500,000 which is remitted from the Abandoned Property Fund to the MLSC Fund every year. Under Commercial Law Article 17-317(a)(2), the Comptroller distributes \$500,000 from Abandoned Property revenue to the MLSC Fund as a revenue distribution. This is not an appropriated transfer. Further, Human Services Article 11-401(a) requires the Governor to appropriate \$500,000 to the MLSC Fund supported by or in addition to the funds from Abandoned Property (see 11-401(b)(1)). As far as the MLSC Fund revenues being remitted to MLSC, as explained earlier the Judiciary appropriates the special fund revenue from the IOLTA and the court filing fees as a special fund appropriation within the Judiciary budget. It does not budget any general funds for this purpose since the \$500,000 is placed in the MLSC Fund through a revenue distribution, as noted above. No other agency within the Executive Branch appropriates either general or special funds to MLSC.

There is an issue as to whether the General Assembly may constitutionally mandate that the Governor include an appropriation within the Judiciary budget. This issue is currently under review by the Office of the Attorney General (OAG). While at this time it remains unclear as to what the General Assembly's options are, the legal and policy determinations will require a statutory modification, especially if the General Assembly seeks to modify the amount of revenue which MLSC receives from the Abandoned Property fund, or any other general funds.

DLS will recommend language be added to the Budget Financing and Reconciliation Act (BRFA) of 2013 or separate legislation to amend and clarify current statute after receiving advice of counsel on the matter from OAG.

4. Child Support Enforcement Administration Audit – Electronic Exchange of Attorney Data

In September 2011, a fiscal compliance audit of the Department of Human Resources' (DHR) Child Support Enforcement Administration (CSEA) was released containing 11 findings, including 5 findings repeated from the previous report. Despite the fact that the number of audit findings and repeat findings decreased from previous fiscal compliance audits, the audit of CSEA contained several findings of concern to the General Assembly, including the failure to establish electronic data exchanges with State agencies for the purpose of professional license suspensions. As a result of the General Assembly's concerns over CSEA's ongoing audit issues and the number of repeat findings, budget bill language was added to the fiscal 2013 budget bill (Chapter 148 of 2012) withholding \$100,000 of the general fund appropriation for the administrative expenses of the State offices of CSEA until DHR completed all actions planned to resolve audit findings.

In a letter dated January 3, 2013, the budget committees reiterated their concern that actions necessary to resolve some findings, including the full implementation of an electronic data exchange for the purpose of professional license suspensions, were not yet complete. As of September 1, 2012, the Office of Legislative Audits (OLA) determined that CSEA had established electronic data exchanges with 7 of the 15 licensing agencies initially identified in the fiscal compliance audit. One agency where no established electronic data exchange had been either implemented or agreed upon was with the Judiciary for the purposes of attorney license suspensions. It was noted by DHR that review for newly licensed attorneys was ongoing, and that a memorandum of understanding (MOU) for existing attorney licenses was still under development. According to the Judiciary, this MOU has been circulated and is awaiting final approval from the Chief Judge. However, there are no current plans for an electronic exchange of data.

In the interim, the Joint Audit Committee focused on the prevalence of repeat audit findings within various State agencies. The committee was concerned that many agencies were having numerous findings repeated in successive audits, and one such agency included CSEA. This year, the Joint Audit Committee has requested that budget bill language be added for each unit of State government that has four or more repeat audit findings in its most recent fiscal compliance audit. Each such agency is to have a portion of its administrative budget withheld pending the adoption of corrective action by the agency, and a determination by OLA that each finding was corrected. Since the failure to establish electronic data exchanges with State agencies is a repeat finding with CSEA for which DHR will be held responsible for resolving this upcoming fiscal year, and since it will require action by both DHR and the Judiciary to resolve this finding, it is appropriate that both agencies be held responsible until the finding is resolved.

DLS recommends withholding \$1,000,000 from the general fund appropriation of the Judiciary until the electronic exchange of data on attorney licenses is fully implemented such that it addresses the finding within the DHR fiscal compliance audit.

Recommended Actions

1. Add the following language:

Provided that 31 positions and \$3,224,902 in general funds are contingent upon the enactment of HB 83 or SB 239.

Explanation: This action will make the funding of these positions contingent upon the enactment of HB 83 or SB 239. Included in this amount are 31 new positions as well as 4 contractual bailiff full-time equivalents and supply costs, which will support the creation of 5 circuit court, 4 District Court, and 2 Court of Special Appeals judges.

2. Add the following language:

Further provided that a \$736,689 general fund reduction is made and 14 new positions are abolished.

Explanation: This action will abolish 14 new regular positions within the Judiciary's request across the following programs: the Court of Appeals (1); the Court of Special Appeals (4); District Court (4); the Administrative Office of the Courts (1); court-related agencies (1); and the Judicial Information Systems (3). These positions are being denied because they do not meet the Spending Affordability Committee's criteria for new positions.

3. Add the following language:

Further provided that a \$595,070 general fund reduction is made and the conversion of 32 positions denied.

Explanation: This action reduces the Judiciary's fiscal 2014 allowance to prevent the conversion of 32 contractual positions from becoming regular positions within the Judiciary's request across the following programs: District Court (14); the Administrative Office of the Courts (4); and Clerks of the Circuit Courts (14). These positions are being denied because they do not meet the Spending Affordability Committee's criteria for contractual conversions. It is the intent of the General Assembly that these positions remain as contractual full-time equivalents within the Judiciary.

C00A00 – Judiciary

4. Add the following language:

Further provided that a \$3,478,940 general fund reduction is made for operating expenditures. This reduction shall be allocated among the following divisions and fund types:

<u>Program</u>	<u>Comptroller Subobject</u>	<u>Amount</u>
<u>C00A00.01</u>	<u>0401 – In-state/Routine Operations</u>	<u>\$122,470</u>
	<u>0899 – Other Contractual Services Non-DP</u>	<u>\$145,544</u>
	<u>1199 – Other Equipment</u>	<u>\$161,500</u>
<u>C00A00.02</u>	<u>0401 – In-state/Routine Operations</u>	<u>\$35,072</u>
	<u>1015 – Office Equipment</u>	<u>\$7,760</u>
	<u>1131 – Data Processing - Mainframe</u>	<u>\$5,000</u>
<u>C00A00.04</u>	<u>0301 – Postage</u>	<u>\$250,440</u>
	<u>0401 – In-state/Routine Operations</u>	<u>\$26,244</u>
	<u>0701 – Purchase Cost or Lease Cost</u>	<u>\$30,000</u>
	<u>0817 – Legal Services</u>	<u>\$800,000</u>
	<u>0821 – Management Studies or Consultants</u>	<u>\$25,000</u>
<u>C00A00.06</u>	<u>0301 – Postage</u>	<u>\$32,809</u>
	<u>0401 – In-state/Routine Operations</u>	<u>\$36,997</u>
	<u>0823 – Security Services</u>	<u>\$108,600</u>
	<u>1202 – Aid to Political Subdivisions</u>	<u>\$50,000</u>
	<u>1206 – Grants to Other St. Govt. Prog./Agen.</u>	<u>\$40,000</u>
	<u>1299 – Other Grants, Subsidies, and</u>	
	<u>Contributions</u>	<u>\$38,356</u>

C00A00 – Judiciary

<u>C00A00.07</u>	<u>0819 – Education/Training Contracts</u>	<u>\$28,400</u>
	<u>0872 – Outside Services – Consulting Services</u>	<u>\$24,725</u>
	<u>0902 – Office Supplies</u>	<u>\$9,503</u>
	<u>0930 – Microcomputer Packaged Applications</u>	<u>\$20,000</u>
<u>C00A00.08</u>	<u>0915 – Library Supplies</u>	<u>\$33,300</u>
<u>C00A00.09</u>	<u>0304 – Misc. Communications Charges</u>	<u>\$325,000</u>
	<u>0401 – In-state/Routine Operations</u>	<u>\$6,169</u>
	<u>0402 – In-state/Conferences/Seminars/Training</u>	<u>\$13,182</u>
	<u>1131 – Data Processing - Mainframe</u>	<u>\$96,946</u>
<u>C00A00.10</u>	<u>0804 – Printing/Reproduction</u>	<u>\$18,317</u>
	<u>0806 – Microfilming</u>	<u>\$4,289</u>
	<u>0812 – Building/Road Repairs and Maintenance</u>	<u>\$27,202</u>
	<u>0819 – Education/Training Contracts</u>	<u>\$46,244</u>
	<u>0902 – Office Supplies</u>	<u>\$223,650</u>
	<u>1115 – Office Equipment</u>	<u>\$226,257</u>
<u>C00A00.11</u>	<u>0401 – In-state/Routine Operations</u>	<u>\$2,229</u>
	<u>1207 – Grants to Nongovernmental Entities</u>	<u>\$457,735</u>

Explanation: This action reduces the Judiciary’s fiscal 2014 allowance for various operating expenses in the Court of Appeals, the Court of Special Appeals, circuit courts, District Court, the Administrative Office of the Courts, court-related agencies, the State Law Library, the Judicial Information Systems, the Clerks of the Circuit Court, and the Family Law division. This action will limit the growth of spending within the operating costs of various programs while allowing for proper inflation. The total reduction should be split as indicated above among general funds.

C00A00 – Judiciary

- | | <u>Amount
Reduction</u> | |
|----|--|---------------|
| 5. | Eliminate funding for 34 full-time equivalents for new bailiffs. These funds were requested so the Judiciary could staff each courtroom with at least 2 bailiffs. Vacancies should be used to fulfill this requirement. | \$ 947,988 GF |
| 6. | Add the following language to the general fund appropriation:

<u>, provided that \$1,000,000 may not be expended unless:</u> <ol style="list-style-type: none">1. <u>the Judiciary and the Department of Human Resources have taken corrective action with respect to the finding in the Department of Human Resources’ audit concerning the electronic exchange of data for the purpose of license suspensions on or before January 1, 2014; and</u>2. <u>a report is submitted to the budget committees by the Office of Legislative Audits with a determination that this finding was corrected. The budget committees shall have 45 days review and comment from the date of submission of the report.</u> | |

Explanation: This action will withhold general funds from the Judiciary until the Office of Legislative Audits reports that there is an operational electronic exchange of data on attorneys between the Judiciary and the Department of Human Resources for the purpose of license suspensions in cases where attorneys are delinquent on child support payments.

- | | <u>Amount
Reduction</u> | |
|----|---|----------------------------|
| 7. | Increase turnover expectancy for the Judiciary from 4.0 to 4.6%, which is closer to the historical vacancy rate of the agency. The Judiciary is also authorized to distribute this reduction across programs. | 1,000,000 GF
500,000 SF |
| 8. | Adopt the following narrative: | |

Information on the Disciplinary and Client Protection Fund: The budget committees remain concerned about the lack of legislative oversight over the level of attorney assessments credited to the Disciplinary Fund and of expenses by the Attorney Grievance Commission, the Client Protection Fund of the Bar of Maryland, and the Maryland Professionalism Center. The committees request that the Judiciary submit a report with its budget submission each year which details the established fees, the fund balance, and detailed expenditures and budgets by Comptroller object and subobject, including position detail, for fiscal 2013 through 2015.

C00A00 – Judiciary

Information Request	Author	Due Date
Disciplinary and Client Protection Fund fees, balance, revenues, and expenditures	Judiciary	November 1, 2013, and annually thereafter
Total Reductions		\$ 2,447,988
Total General Fund Reductions		\$ 1,947,988
Total Special Fund Reductions		\$ 500,000

Updates

1. Plan to Create New Judges to Fulfill Certified Need

Since 1979, the Chief Judge of the Court of Appeals has annually certified to the General Assembly the need for additional judges in the State's District and circuit courts. In fall 2011, the certification of judgeships for fiscal 2013 was submitted. Citing the economic climate, no new judgeships were requested despite having certified a need for 21 circuit court and 19 District Court judges. New judgeships have not been created since fiscal 2010, when 4 new circuit court judgeships were created. At the same time, the fiscal 2013 allowance includes \$4.6 million for the purpose of recalling retired judges to the bench. Retired judges regularly supplement the work of full-time judges and help address increases in caseloads.

During the 2012 session, the budget committees adopted narrative requesting the Judiciary to develop a multi-year plan to request new circuit court and District Court judges, so that workloads can be addressed gradually without having a significant impact on State finances. In the fall of 2012, the Judiciary submitted this plan along with the fiscal 2014 certification of judgeships. In the new certification, the Judiciary certified a need for 38 trial court judges. According to the Judiciary's certifications, 13 counties in Maryland are in need of 21 new circuit court judgeships, while 7 of those counties are also in need of 17 District Court judges as well. From these certifications of need, the Judiciary also considered whether each jurisdiction also had the required space available as well as the necessary funding to support the circuit court judges. **Exhibit 9** displays the current need and ability to accommodate the need in each of the counties.

Based on the availability of space and local funding within each county, as well as taking into consideration the jurisdictions last receiving additional judgeships in the 2009 session (Anne Arundel, Baltimore, and Montgomery counties and Baltimore City circuit courts), the Judiciary came up with the Judgeship Deployment Plan in **Exhibit 10**. This plan, if followed, will provide for 26 of the certified need of 38 judges by the 2018 legislative session. Circuit court needs that will remain unfulfilled include Anne Arundel (2), Baltimore City (2), Baltimore County (1), and Harford (2). The District Court will have unfulfilled needs in certain counties including Baltimore City (1), Prince George's (3), and Washington County (1).

Exhibit 9
Certified Need for Judgeships – Circuit and District Court
Fiscal 2014

<u>Jurisdiction</u>	<u>Judge Need</u>		<u>Space Available</u>		<u>Funding for Staff (Circuit Court)</u>
	<u>Circuit Court</u>	<u>District Court</u>	<u>Circuit Court</u>	<u>District Court</u>	
Anne Arundel	2		No		No
Baltimore City	3	2	Yes for 1	Yes for 1	Yes
Baltimore County	3	5	Yes for 2	Possibly in fiscal 2017 or 2018	Yes
Calvert	1		Yes		Yes
Carroll	1		Yes		Yes
Cecil	1		Yes		Yes
Charles	1	1	Yes	Yes	Yes
Frederick	1		Yes		Yes
Harford	2		No		No
Montgomery	3	2	Yes	Yes	Yes
Prince George's	1	5	Yes	Yes for 2	Yes
Washington	1	1	Possibly	No until the CIP addition	Not at this time but will be pursued
Wicomico	1	1	Yes	Yes	Yes

CIP: *Capital Improvement Program*

Source: Maryland Judiciary

Exhibit 10
Judgeship Deployment Plan
2013-2018

Spring Legislative Session	<u>Circuit Courts</u>	<u>District Courts</u>	<u>Total</u>
2013	Calvert (1), Carroll (1), Cecil (1), Frederick (1), Wicomico (1)	Baltimore City (1), Charles (1), Montgomery (1), Prince George's (1)	9
2014	Baltimore City (1), Baltimore County (1), Charles (1), Montgomery (1), Prince George's (1)	Prince George's (1), Wicomico (1)	7
2015	Baltimore County (1), Montgomery (1), Washington (1)	Montgomery (1)	4
2016	Montgomery (1)		1
2017		Baltimore County (3)	3
2018		Baltimore County (2)	2

Source: Maryland Judiciary

Furthermore, in the fiscal 2014 certification, the Judiciary certified a need for 4 additional Court of Special Appeals judges. The Judiciary noted that there has not been an increase in the size of the court's bench since 1977. During this time, appeals have increased by 42% while the number of opinions has increased by 38%, resulting in an increase in time from docketing to argument during this 35-year period of 110%. However, while certifying this need at this time, the Judiciary is only requesting 2 at-large judgeships for fiscal 2014, in order to permit the Judiciary to assess the impact that these additional judges would have on the court's workload.

2. Land Records Fund Unsustainable Beyond Fiscal 2015

The Circuit Court Real Property Records Improvement Fund, also known as the Land Records Improvement Fund (LRIF), is a nonlapsing fund that supports all personnel and operating costs within the land records offices of the Clerks of the Circuit Court. It further supports the maintenance costs of the Electronic Land Record Online Imagery (ELROI) system and the website making images accessible to the public. During the 2007 special session, legislation was adopted to expand the scope of the fund to include the Judiciary's major IT development projects.

Revenues for the LRIF are generated primarily through a recordation surcharge fee on all real estate transactions. Accordingly, revenues to the fund are largely driven by home sales. As the housing climate deteriorated, revenues to the fund have declined similarly. Chapter 397 of 2011 increased the land records surcharge from \$20 to \$40 for fiscal 2012 through 2015 only. This was in response to concerns over the structural imbalance of the fund and the possibility that the fund balance would be depleted as early as fiscal 2012, threatening the fund source for the operations of the land records offices of the Clerks of the Circuit Court as well as for major IT projects. The purpose of the fee increase was to provide sufficient funds for these endeavors. As shown in **Exhibit 11**, the fund expects to remain viable at least through fiscal 2015. The main reason why the LRIF is not expected to be viable past fiscal 2015 is because the surcharge put in place in 2011 would sunset following fiscal 2015. This would lead to an estimated 50% reduction in revenue projections. Should the sunset on the surcharge be extended, the LRIF would be viable on a cash-flow basis, but the structural deficit of the fund would continue to exist in fiscal 2016 and potentially beyond.

The fund's balance has been helped in recent years by constrained real estate activity which has resulted in relatively higher vacancy rates in the land records offices. As seen in the Exhibit 11, recent spending in the offices has averaged around \$12.5 million per year. The fiscal 2013 through 2016 estimates, however, are based on full funding for the personnel complement of the land records offices. The fund balance will be higher to the extent that higher numbers of vacancies are maintained. However, the ability to hold enough positions vacant could be affected if the housing market starts to pick back up. While improved home sales would mean more revenue for the fund, this increase in revenue could be completely offset by the need to hold fewer land record office positions vacant.

Major IT funding is declining in fiscal 2014 but increasing over previous projections for fiscal 2015 and 2016. As **Exhibit 12** shows, this is mainly due to funding variations in the MDEC project, which rises in total projected costs by \$4 million from last year's projection. This could be an issue since the greatest cost increases for MDEC are projected for fiscal 2016 and 2017, both of which are beyond the current LRIF surcharges sunset. Further, the ELROI improvement project, which has been suspended since fiscal 2009 for spending concerns, is projected to remain suspended through fiscal 2013. While funding is included in the request to begin this project in fiscal 2014, should the project be suspended once again this will increase the funding requirements for major IT in the out years. It should be noted that the current projections do not include any new projects through fiscal 2017.

Exhibit 11
Land Records Improvement Fund
Fiscal 2010-2016
(\$ in Thousands)

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>Working Approp. 2013</u>	<u>Request 2014</u>	<u>Projected 2015</u>	<u>Projected 2016</u>
Starting Balance	\$57,880	\$47,005	\$40,054	\$32,666	\$25,217	\$19,787	\$11,332
Total Revenue	\$16,522	\$15,821	\$31,835	\$32,000	\$32,000	\$32,000	\$16,000
Expenses							
Land Records Offices	13,178	12,291	12,490	16,703	17,088	17,943	18,840
mdlandrec.net	5,000	5,000	5,000	5,000	5,000	5,000	5,000
ELROI Maintenance	3,426	1,700	1,426	2,301	2,011	2,300	2,300
Major IT Projects	5,821	2,169	10,308	15,444	13,331	15,212	11,189
One-Time Interest Repayment		2,169					
General Fund Transfer			10,000				
Encumbrance Reconciliation	-28	-558					
Total Expenses	\$27,397	\$22,772	\$39,223	\$39,448	\$37,430	\$40,455	\$37,329
Ending Balance	\$47,005	\$40,054	\$32,666	\$25,217	\$19,787	\$11,332	-\$9,997
Structural Imbalance	-\$10,875	-\$6,952	-\$7,388	-\$7,448	-\$5,430	-\$8,455	-\$21,329

ELROI: Electronic Land Records On-line Imagery

IT: Information Technology

Source: Maryland Judiciary; Department of Legislative Services

Exhibit 12
Major Information Technology Funding
ITMP Comparison

Fiscal 2014 ITMP

	<u>Prior Years</u>	<u>Actual 2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Est. at Comp. 2014</u>	<u>Difference to 2013</u>
MDEC	\$6,681,259	\$3,770,633	\$10,564,192	\$6,126,824	\$9,723,707	\$10,003,429	\$8,986,710	\$55,856,754	\$3,895,668
ELROI	25,672	0	0	1,548,000	1,600,000	1,185,800	200,000	4,559,472	-200,000
AOC Back Office Revenue	2,679,290	2,343,278	6,330,422	5,225,910	3,888,517	0	0	20,467,417	236,923
Collection	2,835,638	787,144	201,816	239,000	0	0	0	4,063,598	92,376
Total	\$12,221,859	\$6,901,055	\$17,096,430	\$13,139,734	\$15,212,224	\$11,189,229	\$9,186,710	\$84,947,241	\$4,024,967

Fiscal 2013 ITMP

	<u>Prior Years</u>	<u>Actual 2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>Est. at Comp. 2013</u>
MDEC	\$2,944,677	\$3,736,582	\$7,327,710	\$7,900,034	\$7,872,903	\$8,641,418	\$7,352,504	\$6,185,258	\$51,961,086
ELROI	25,672	0	0	1,548,000	1,600,000	1,185,800	200,000	200,000	4,759,472
AOC Back Office Revenue	2,185,787	493,503	3,432,619	5,567,158	4,662,910	3,888,517	0	0	20,230,494
Collection	1,352,763	1,482,875	667,584	229,000	239,000	0	0	0	3,971,222
Total	\$6,508,899	\$5,712,960	\$11,427,913	\$15,244,192	\$14,374,813	\$13,715,735	\$7,552,504	\$6,385,258	\$80,922,274

AOC: Administration of the Courts

ELROI: Electronic Land Records On-line Imagery

ITMP: Information Technology Master Plans

MDEC: Maryland Electronic Court Management Build-out

Source: Maryland Judiciary Information Technology Master Plan, Fiscal 2013 and 2014

Current and Prior Year Budgets

Current and Prior Year Budgets Judiciary (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2012					
Legislative Appropriation	\$372,372	\$52,554	\$3,595	\$141	\$428,663
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	2,067	161	2,763	0	4,991
Reversions and Cancellations	-171	-7,656	-1,876	-27	-9,730
Actual Expenditures	\$374,269	\$45,059	\$4,482	\$114	\$423,924
Fiscal 2013					
Legislative Appropriation	\$387,400	\$56,265	\$3,443	\$141	\$447,249
Budget Amendments	0	2,318	2,515	0	4,833
Working Appropriation	\$387,400	\$58,584	\$5,957	\$141	\$452,082

Note: Numbers may not sum to total due to rounding.

Fiscal 2012

The Judiciary completed fiscal 2012 \$4,738,984 below its legislative appropriation.

General Funds: Actual expenditures were \$1,896,250 above the legislative appropriation, mainly due to \$2,277,285 in added funds through a budget amendment related to the \$750 one-time employee bonus. A budget amendment also reduced general funds by \$210,000 with another \$171,035 in reversions, both related to telecommunications costs.

Special Funds: Actual expenditures were \$7,494,837 below the legislative appropriation, mainly due to \$7,655,633 in cancelled funds. \$4.6 million of this cancellation was due to land record positions within the circuit court clerk offices being held vacant due to the slowing economy and the housing crisis. Another \$1.5 million was due to a delay in starting the e-recording major IT project. These cancelled funds were offset by \$160,796 in added special funds due to the one-time employee bonus.

Federal Funds: Actual expenditures were \$886,948 above the legislative appropriations. Federal fund budget amendments included \$38,408 for the one-time employee bonus, \$1,899,689 for Family Administration and the Administrative Office of the Courts for child support enforcement, and \$825,000 for Circuit Court Judges and Clerks for child support enforcement. However, \$1,876,149 was unspent at the end of fiscal 2012, with a majority of these funds being carried over into fiscal 2013.

Reimbursable Funds: Actual expenditures were \$27,345 below the legislative appropriation. These funds are being carried over into fiscal 2013.

Fiscal 2013

To date, \$4,832,901 has been added through budget amendments to the legislative appropriation for fiscal 2013.

Special Funds: \$2,318,397 is added for the COLA from the Budget Restoration Fund.

Federal Funds: \$2,514,504 is added, mainly consisting of a budget amendment which added \$2,491,259 related to various family administration, foster care, and drug court programs. An additional \$23,245 is also added relating to the COLA associated with the Budget Restoration Fund.

**Object/Fund Difference Report
Judiciary**

<u>Object/Fund</u>	<u>FY 12 Actual</u>	<u>FY 13 Working Appropriation</u>	<u>FY 14 Allowance</u>	<u>FY 13 - FY 14 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	3,581.25	3,584.50	3,666.50	82.00	2.3%
02 Contractual	405.00	446.00	447.00	1.00	0.2%
Total Positions	3,986.25	4,030.50	4,113.50	83.00	2.1%
Objects					
01 Salaries and Wages	\$ 286,168,855	\$ 295,182,884	\$ 306,772,798	\$ 11,589,914	3.9%
02 Technical and Spec. Fees	13,783,429	15,762,356	15,817,773	55,417	0.4%
03 Communication	12,130,834	11,204,577	12,510,753	1,306,176	11.7%
04 Travel	1,311,241	1,181,664	1,507,106	325,442	27.5%
06 Fuel and Utilities	697,904	945,571	725,022	-220,549	-23.3%
07 Motor Vehicles	276,913	137,298	188,749	51,451	37.5%
08 Contractual Services	40,721,678	56,160,602	57,016,223	855,621	1.5%
09 Supplies and Materials	6,111,889	5,373,109	5,805,726	432,617	8.1%
10 Equipment – Replacement	3,777,084	5,742,897	5,402,878	-340,019	-5.9%
11 Equipment – Additional	5,585,688	2,259,101	2,577,549	318,448	14.1%
12 Grants, Subsidies, and Contributions	38,249,504	43,205,305	44,044,326	839,021	1.9%
13 Fixed Charges	14,297,098	14,613,699	15,631,184	1,017,485	7.0%
14 Land and Structures	811,635	313,000	150,000	-163,000	-52.1%
Total Objects	\$ 423,923,752	\$ 452,082,063	\$ 468,150,087	\$ 16,068,024	3.6%
Funds					
01 General Fund	\$ 374,268,731	\$ 387,400,233	\$ 409,859,307	\$ 22,459,074	5.8%
03 Special Fund	45,059,188	58,583,611	53,972,256	-4,611,355	-7.9%
05 Federal Fund	4,482,178	5,957,219	4,177,524	-1,779,695	-29.9%
09 Reimbursable Fund	113,655	141,000	141,000	0	0%
Total Funds	\$ 423,923,752	\$ 452,082,063	\$ 468,150,087	\$ 16,068,024	3.6%

Note: The fiscal 2013 appropriation does not include deficiencies. The fiscal 2014 allowance does not include contingent reductions.

**Fiscal Summary
Judiciary**

<u>Program/Unit</u>	<u>FY 12 Actual</u>	<u>FY 13 Wrk Approp</u>	<u>FY 14 Allowance</u>	<u>Change</u>	<u>FY 13 - FY 14 % Change</u>
01 Court of Appeals	\$ 14,009,461	\$ 14,890,675	\$ 16,117,218	\$ 1,226,543	8.2%
02 Court of Special Appeals	9,129,629	8,948,271	10,248,933	1,300,662	14.5%
03 Circuit Court Judges	59,804,044	60,802,998	61,647,985	844,987	1.4%
04 District Court	144,716,049	147,915,445	155,802,410	7,886,965	5.3%
05 Maryland Judicial Conference	33,098	107,650	107,650	0	0%
06 Administrative Office of the Courts	40,219,204	45,117,750	42,833,883	-2,283,867	-5.1%
07 Court Related Agencies	5,071,988	5,438,168	5,826,557	388,389	7.1%
08 State Law Library	2,127,025	2,646,053	2,774,763	128,710	4.9%
09 Judicial Information Systems	36,926,689	37,469,690	43,944,642	6,474,952	17.3%
10 Clerks of the Circuit Court	88,315,381	98,055,279	99,958,789	1,903,510	1.9%
11 Family Law Division	13,263,671	15,245,892	15,555,856	309,964	2.0%
12 Major IT Development Projects	10,307,513	15,444,192	13,331,401	-2,112,791	-13.7%
Total Expenditures	\$ 423,923,752	\$ 452,082,063	\$ 468,150,087	\$ 16,068,024	3.6%
General Fund	\$ 374,268,731	\$ 387,400,233	\$ 409,859,307	\$ 22,459,074	5.8%
Special Fund	45,059,188	58,583,611	53,972,256	-4,611,355	-7.9%
Federal Fund	4,482,178	5,957,219	4,177,524	-1,779,695	-29.9%
Total Appropriations	\$ 423,810,097	\$ 451,941,063	\$ 468,009,087	\$ 16,068,024	3.6%
Reimbursable Fund	\$ 113,655	\$ 141,000	\$ 141,000	\$ 0	0%
Total Funds	\$ 423,923,752	\$ 452,082,063	\$ 468,150,087	\$ 16,068,024	3.6%

Note: The fiscal 2013 appropriation does not include deficiencies. The fiscal 2014 allowance does not include contingent reductions.

C00A00 – Judiciary

Appendix 3